The uncontradicted evidence showed and the trial court found that the exemption, as construed by the taxing authorities, is applied to all buildings used for the purpose of teaching or contemplating the beliefs of any philosophical system, regardless of whether that philosophical system includes a belief in the existence of a supreme being. It also showed that the exemption is applied only to buildings in actual use for such purposes and is not available for property held for future construction or investment or other use. The court found that in Baltimore City the exemption under subsection (4) accounts for only about 13.5% of the property exempted from taxation under the various subsections of Section 9 of Article 81.

The trial court, in a comprehensive opinion held that the Petitioners had standing to sue but that the exemption does not violate the Federal Constitution.

The Court of Appeals of Maryland affirmed the trial court holding that the exemption does not violate the establishment clause because its purpose and primary effect are secular in nature.*

ARGUMENT

I.

PETITIONERS' CLAIM OF VIOLATION OF THE ESTABLISHMENT CLAUSE DOES NOT PRESENT A SUBSTANTIAL FEDERAL QUESTION.

Subsection (4) which is challenged here is one of sixty subsections of Section 9. Of those sixty, at least nineteen exempt classes of real estate. Section 9 exempts (in addi-

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* The Court of Appeals also discussed and dismissed a claim of invalidity under the equal protection clause of the Fourteenth Amendment. That claim was not made by the Petitioners in the trial court, was not considered by that court and is not, therefore, before this Court.

tion to church properties) *inter alia* hospitals, educational and literary institutions, charitable institutions, fraternal and benevolent associations, non-profit civic clubs, youth organizations, veterans' organizations, historical societies and volunteer fire departments. These exemptions demonstrate that Maryland, like most other states, has exempted from taxation property, which may fairly be said to be devoted to the public general welfare. Rather than couch its exemption statute in broad general terms, Maryland chose the inductive approach. Section 9 read as a whole is a general statement of legislative policy expressed as the sum of its parts. Each of the parts, including religious properties, are those which Maryland concluded should be encouraged, since they benefit the people of the State. Churches, like the other charitable institutions exempted by Section 9, perform a substantial number of secular functions which would otherwise necessarily be performed by the state. The exemption of churches along with other institutions serving similar secular functions does not constitute an establishment in the constitutional sense. It demonstrates Maryland's neutral legislative policy.

The constitutionality of such exemptions has been upheld in every state in which they have been challenged. *Sisters of Holy Cross v. Town of Brookline,* 198 N.E. 2d 624 (Mass., 1964); *General Finance Corporation v. Archetto,* 176 A. 2d 73 (R. I., 1961); *Fellowship of Humanity v. County of Alameda,* 315 P. 2d 394 (Calif., 1957); *Lundberg v. County of Alameda,* 298 P. 2d 1 (Calif., 1956); *State v. Alabama Educational Foundation,* 163 So. 527 (Ala., 1935); *Garrett Biblical Institute v. Elmhurst State Bank,* 163 N.E. 1 (Ill., 1928); and *City and County of San Francisco v. McGovern,* 152 Pac. 980 (Calif., 1915). They have been sustained wherever challenged in lower federal courts. *Swallow v. United States,* 325 F. 2d 97 (10 Cir.,

1963); *United States v. Department of Revenue of State of Ill.*, 202 F. Supp. 757 (N.D. Ill., 1962); *Sovereign Camp W. O. W. v. Casados*, 21 F. Supp, 989, (N.M., 1938); and, *County of Santa Clara v. Southern Pac. R. Co.*, 18 F. 385, (9 Cir., 1883).

This Court has affirmed or refused to consider all such cases brought before it. *Swallow v. United States, supra*, cert. denied, 371 U.S. 950 (1963), rehearing denied, 372 U.S. 925 (1963); *United States v. Department of Revenue of State of Ill., supra*, affirmed, 371 U.S. 21 (1962); *General Finance Corporation v. Archetto, supra*, appeal dismissed, 369 U.S. 423 (1961); *Lundberg v. County of Alameda, supra*, appeal dismissed, *sub. nom. Heisey v. County of Alameda*, 352 U.S. 921 (1956); *Sovereign Camp W. O. W. v. Casados; supra*, affirmed, 305 U.S. 558 (1938); and *Santa Clara Co. v. South Pac. Railroad, supra*, affirmed, 118 U.S. 394 (1886). Of these cases *General Finance* and *Heisey* are factually indistinguishable from the case at bar.

For the reasons stated, it appears clear that the decision of the Court of Appeals of Maryland is correct. It is in accord with the applicable decisions of this Court. It is not in conflict with the decisions of other lower courts, either state or federal. Petitioners' constitutional claims fail to present a substantial federal question.

II.

PETITIONERS LACK STANDING TO MAINTAIN THIS ACTION

The holding of a state court that, for its purposes, a taxpayer has standing to challenge the validity of a state statute does not establish that there exists a justiciable case or controversy subject to review by this Court under the provisions of Section 2 of Article III of the Federal Constitution. *Doremus v. Board of Education*, 342 U.S. 429 (1952).

It is axiomatic that Article III, Section 2 requires a good faith pocketbook action. The taxpayer must show that the challenged statute results in some special injury to him. Thus a taxpayer's suit will not present a justiciable case or controversy unless the taxpayer shows some adverse impact on his individual interest, which is different from that of taxpayers generally. *Swallow v. United States,* 325 F. 2d 97 (10 Cir., 1963), cert. denied 371 U.S. 950 (1963), rehearing denied 372 U.S. 925 (1963); *Doremus v. Board of Education, supra; Elliott v. White,* 23 F. 2d 997 (D.C. Cir., 1928); *Frothingham v. Mellon,* 262 U.S. 447 (1923).

The record demonstrates no factual basis for such a conclusion in this case and, therefore, Petitioners present no case or controversy for review by this Court.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Petitions for a Writ of Certiorari should be denied.

Respectfully submitted,

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